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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,851	02/27/2004	Michael Wiggins	2004-0119-US	6850

7590 04/05/2006  
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EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT PAPER NUMBER

3637

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/788,851	<b>Applicant(s)</b> WIGGINS, MICHAEL	
	<b>Examiner</b> Timothy M. Ayres	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/27/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

This is a first office action on the merits of application SN 10/788,851.

#### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the furniture being a table or a chest and the historic landmark being a battlefield, a city, and a natural landmark must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Regarding claim 1, based on the definition in the specification and the claim limitations of claims 9 and 11 the souvenir substance being a living or natural item such as a piece of rock, earth, or tree makes the claims directed to non-statutory subject matter.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The souvenir substance is not shown or described with enough detail so that one skilled in the art can ascertain how it is connected to the article of furniture.
6. Claim 2 and 3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which

Art Unit: 3637

was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. A cover is not described in the specification as being attached to the horizontal shelf nor being transparent. The only object disclosed as being transparent is the door, which is attached to the walls of the cabinet.

7. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The disclosure does not show how a table or chest would have the horizontal shelf connected.

8. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The horizontal shelf is not disclosed as being located on the upper surface of the article furniture.

9. Claims 21 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the

Art Unit: 3637

invention. It is unclear how if the visual representation as a model or scale model is attached to the horizontal shelf or how it is going to fit inside the door.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 10, 13, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. Regarding claims 10, 13 and 16, the term "related" makes the claims indefinite since there are many ways that items can be related.

### ***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claim 24 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 2,674,813 to Hutchinson. Hutchinson teaches a cabinet with a horizontal shelf (7) attached to a plurality of walls (3). A visual representation of a historic landmark is attached to the horizontal shelf (7) as seen in figure 1. The visual representation being a model and the historical landmark being a representation of a map with cities as seen in figure 29.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

17. Claims 1- 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,118,171 to Ortiz. Ortiz teaches a cabinet with a horizontal shelf (16) and a plurality of sidewalls (13). A transparent cover (21) is attached to the horizontal shelf (16) as seen in figure 4. Attached to the horizontal shelf (16) is a back wall with a decorative fabric material (26) which is a flag in the embodiment disclosed, but is capable of being anything such as a visual representation of anything. By definition given in the specification the Historical landmark can be a man-made object, which the flag is. Memorabilia (M) is located below the shelf and is related to the visual representation (26). The helmet (H) can be considered a souvenir substance in the broad sense. The office takes official notice that that souvenir substances by the

Art Unit: 3637

definition in the specification are well known and therefore it would have been obvious to place a souvenir substance on the shelf that is related to the visual representation. The office takes official notice that visual representations of Independence Hall, Benjamin Franklin, Thomas Jefferson, Declaration of Independence, Syng Inkstand, and the liberty bell are all well known. Since these objects come from the same event it is also obvious to combine them into the same visual representation.

18. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2,674,813 to Hutchinson. Hutchinson teaches a cabinet with a horizontal shelf (7) attached to a plurality of walls (3). A visual representation of a historic landmark is attached to the horizontal shelf (7) as seen in figure 1. The visual representation being a model and the historical landmark being a representation of a map with cities as seen in figure 29. Hutchison also teaches objects such as the liberty bell (Fig 3), famous figurines (Fig 9 and 15), other famous object in the state of Pennsylvania including a famous tree (47). The office takes official notice that that souvenir substances by the definition in the specification are well known and therefore it would have been obvious to place a souvenir substance on the shelf that is related to the visual representation. The office takes official notice that visual representations of Independence Hall, Benjamin Franklin, Thomas Jefferson, Declaration of Independence, Syng Inkstand, and the liberty bell are all well known. Since these objects come from the same event it is also obvious to combine them into the same visual representation and place models of them on an educational map such as the one taught by Hutchinson.



Art Unit: 3637

**Conclusion**

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents to Rasely, Wright, Maxwell, Richardson, Tran, Kramer, Pilkington, Guilfoil, Powell, Crowley, Garran, Callis, Debs, Yamamoto, Rodrigues, Cayo, Hansen, Randel, Dunn, and Splendora all teach items related to those claimed or disclosed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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3/30/06



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